

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

|                  |                                 |                          |   |
|------------------|---------------------------------|--------------------------|---|
| OAL FILE NUMBERS | NOTICE FILE NUMBER<br><b>Z-</b> | REGULATORY ACTION NUMBER | EMERGENCY NUMBER<br><b>2016-112903E</b> |
|------------------|---------------------------------|--------------------------|---|

For use by Office of Administrative Law (OAL) only

2016 NOV 29 P 3:26

OFFICE OF  
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Department of Food and Agriculture

AGENCY FILE NUMBER (if any)

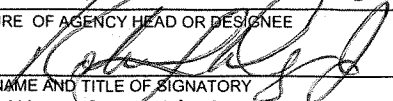
**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

|  |  |                          |                        |                               |
|--|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE   |  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other |  | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER       | FAX NUMBER (Optional)         |
| OAL USE ONLY   | ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn |                          | NOTICE REGISTER NUMBER | PUBLICATION DATE              |

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

|  |  |  |   |
|--|--|--|---|
| 1a. SUBJECT OF REGULATION(S)<br>Asian Citrus Psyllid Interior Quarantine   |  | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |   |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)  |  |  |   |
| SECTION(S) AFFECTED<br>(List all section number(s) individually. Attach additional sheet if needed.)   |  | ADOPT  |   |
|  |  | AMEND<br>3435(b)   |   |
| TITLE(S)<br>3  |  | REPEAL   |   |
| 3. TYPE OF FILING  |  |  |   |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)<br><input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))  |  |  |   |
| <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) |  |  |   |
| <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))<br><input type="checkbox"/> File & Print<br><input type="checkbox"/> Other (Specify) _____   |  |  |   |
| <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)<br><input type="checkbox"/> Print Only   |  |  |   |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)   |  |  |   |
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)   |  |  |   |
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____  |  |  |   |
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY   |  |  |   |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal<br><input type="checkbox"/> Other (Specify) _____  |  |  |   |
| 7. CONTACT PERSON<br>Sara Khalid   |  | TELEPHONE NUMBER<br>916-403-6625                         | FAX NUMBER (Optional)<br>E-MAIL ADDRESS (Optional)<br>Sara.Khalid@cdfa.ca.gov |

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE  


DATE  
11/28/16

TYPED NAME AND TITLE OF SIGNATORY  
Robert Wynn, Statewide Coordinator, Pierce's Disease Control Program

For use by Office of Administrative Law (OAL) only

Amend the following section:

**Section 3435. Asian Citrus Psyllid Interior Quarantine.**

....

(b) Area Under Quarantine:

....

(1) In Kern County:

(A) Along the Northern boundary:

...

(B) In the Delano, Taft, Shafter, Buttonwillow, Bakersfield, Mettler, Maricopa and Wasco areas: Beginning at the intersection of Shafter Avenue and Kimberlina Road; then, starting easterly along said road to its intersection with Lerdo Canal; then, southeasterly along said canal to its intersection with State Highway 99; then, southeasterly along said highway to its intersection with Lerdo Highway; then, easterly along said highway to its intersection with Zerker Road; then, northerly along said road to its intersection with Road 5039; then, easterly along said road to its intersection with an Imaginary Line at the end of said road; then, southeasterly along said line to its intersection with an Unnamed Creek at 35.505503 latitude and -119.074684 longitude; then, northeasterly along said creek to its intersection with an Imaginary Line at 35.513800 latitude and -119.058270 longitude; then, northeasterly along an Imaginary Line to its intersection with S Granite Road at 35.526995 latitude and -118.975172 longitude; then, continuing northeasterly along S Granite Road to its intersection with Round Mountain Road; then, continuing southeasterly along Round Mountain Road to its intersection with an Unnamed Creek at 35.514784 latitude and -118.900084 longitude; then, northeasterly along said creek to its intersection with Poso Creek; then, southeasterly along said creek to its intersection with Rattlesnake Creek; then, easterly along said creek to its intersection with an Unnamed Creek at 35.512060 latitude and -118.801422 longitude; then, northeasterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.529024 latitude and -118.772090 longitude; then, southeasterly along said line to its intersection with an Unnamed Creek at 35.505618 latitude and -118.760567

longitude; then, easterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.528558 latitude and -118.771821 longitude; then, southerly along said line to its intersection with an Unnamed Creek at 35.504941 latitude and -118.726413 longitude; then, southerly along said creek to its intersection with the Kern River; then, southeasterly along said river to its intersection with Stark Creek; then, southeasterly along said creek to its intersection with an Unnamed Creek at 35.454800 latitude and -118.708432 longitude; then, southwesterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.442430 latitude and -118.719765 longitude; then, westerly along said line to its intersection with Barker Creek at the beginning of said creek; then, southerly along said creek to its intersection with Cottonwood Creek and an Imaginary Line; then, southwesterly along said line to its intersection with an Unnamed Creek at 35.391213 latitude and -118.743239 longitude; then, southwesterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.377653 latitude and -118.750925 longitude; then southwesterly along said line to its intersection with an Unnamed Creek at 35.369629 latitude and -118.765459 longitude; then, southeasterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.361364 latitude and -118.751918 longitude; then, southerly along said line to its intersection with Bena Road at 35.325245 latitude and -118.732180 longitude; then, southeasterly along said road to its intersection with California Highway 58; then, southeasterly along said highway to its intersection with White Wolf Road; then, southwesterly along said road to its intersection with an Unnamed Creek at 35.220173 latitude and -118.714107 longitude; then, southeasterly along said creek to its intersection with an Imaginary Line at the end of said creek; then, southerly along said line to its intersection with Chester Court at the beginning of said court; then, southerly along said court to its intersection with an Unnamed Creek at 35.199764 latitude and -118.683327 longitude; then, southerly along said creek to its intersection with an Imaginary Line at 35.182190 latitude and -118.691132 longitude; then, southerly along an Imaginary Line to its intersection with El Paso Creek at 35.994800 latitude and -118.687704 longitude; then, southwesterly along an Imaginary Line to its intersection with the California Aqueduct at 34.946961 latitude and -118.829398 longitude; then, southwesterly along said aqueduct to its intersection with Edmonston Pumping Plant Road; then, westerly along an Imaginary

Line to its intersection with Grapevine Road East until the end of said line; then, southwesterly along said road to its intersection with an Unnamed Road at 34.936476 latitude and -118.944383 longitude; then, southwesterly along an Imaginary Line to its intersection with Pleito Creek at 34.924999 latitude and -119.081841 longitude; then, northwesterly along an Imaginary Line to an Unnamed Road at 34.959795 latitude and -119.281730 longitude; then, northwesterly along an Imaginary Line to its intersection with an Unnamed Road at 35.026806 latitude and -119.331158 longitude; then, southwesterly along said road to its intersection with Western Minerals Road; then, northwesterly along said road to its intersection with Pentland Road; then, southerly along Pentland Road to its intersection with an Imaginary Line at 35.018167 latitude and -119.348767 longitude; then, southwesterly along said line to its intersection with an Unnamed Road at 35.011632 latitude and -119.388568 longitude; then, northwesterly along said road to its intersection with Highway 33; then, northwesterly along an Imaginary Line to its intersection with Bitterwater Creek and Elkhorn Grade Road; then, southwesterly along said road to its intersection with the Kern County Boundary Line; then, northerly along the Kern County Boundary Line to its intersection with an Imaginary Line at 35.179975 latitude and -119.553639 longitude; then, easterly along said line to its intersection with Mocal Road at 35.179931 latitude and -119.549414 longitude; then, easterly along said road to its intersection with Randall Road; then, northerly along said road to its intersection with Highway 33; then, northwesterly along said highway to its intersection with Mocal Road; then, northeasterly along an Imaginary Line to its intersection with an Unnamed Creek at 35.23264 latitude and -119.47309 longitude; then, northwesterly along said creek to its intersection with an Unnamed Creek at 35.2373 latitude and -119.4808 longitude; then, northerly along said creek to its intersection with Zealan Way at 35.26713 latitude and -119.47629 longitude; then, easterly along said way to its intersection with Elk Hills Road; then, northerly along Elk Hills Road to its intersection with an Imaginary Line at 35.309537 latitude and -119.468392 longitude; ~~Elk Hills Road at 35.235482 latitude and -119.445854 longitude~~; then, ~~southeasterly along an Unnamed Road to its intersection with Tank Farm Road~~; then, ~~easterly along said road to its intersection with Tank Farm Road at 35.230803 latitude and -119.393931 longitude~~; then, ~~southerly along said road to its intersection~~

with Dustin Acres Road; then, easterly along said road to its intersection with an Imaginary Line at the end of said road; then, easterly along said line to its intersection with the California Aqueduct at 35.217121 latitude and -119.356714 longitude; then, southerly along the California Aqueduct to its intersection with an Imaginary Line at 35.195469 latitude and -119.358495 longitude; then, easterly along said line to its intersection with an Unnamed Creek at 35.195424 latitude and -119.357148 longitude; then, easterly along an Unnamed Creek to its intersection with an Imaginary Line at 35.194534 latitude and -119.235491 longitude; then, easterly along said line to its intersection with Coles Levee Road and Pieri Road; then, easterly along said road to its intersection with Hill Road; then, southerly along said road to its intersection with Millux Road; then, easterly along said road to its intersection with Interstate 5; then, northwesterly along said interstate to its intersection with Buena Vista Canal; then, northeasterly along said canal to its intersection with Taft Highway; then, easterly along said highway to its intersection with S Allen Road; then, northerly along said road to its intersection with Pensinger Road; then, northerly along an Imaginary Line to its intersection with the Southern Pacific Railroad at 35.310620 latitude and -119.145270 longitude; then, westerly along said railroad to its intersection with Enos Lane; then, northerly along said lane to its intersection with State Highway 58; then, westerly along said highway to its intersection with Cannon Street; then, southerly along said street to its intersection with Old Town Road; then, easterly along said road to its intersection with Bussell Road; then, southerly along said road to its intersection with Stockdale Highway; then, westerly along said highway to its intersection with Morris Road; then, southerly along said road to its intersection with Station Road; then, westerly along said road to its intersection with Tupman Road; then, southerly along Tupman Road to its intersection with an Imaginary Line at 35.312168 latitude and -119.376729 longitude; then, westerly along said line to its intersection with Elk Hills Road at 35.309537 latitude and -119.468392 longitude; then, northwesterly along said line to its intersection with State Highway 58 and an Imaginary Line at 35.370045 latitude and -119.570496 longitude; then, northwesterly along said line to its intersection with 7th Standard Road at 35.441539 latitude and -119.586967 longitude; then, easterly along said road to its intersection with Main Drain Road; then, northwesterly along said road to its intersection

with Milan Road; then, northerly along said road to its intersection with Vlasnik Road; then, westerly along said road to its intersection with Main Drain Road; then, northwesterly along Main Drain Road to its intersection with Lerdo Highway; then, easterly along said highway to its intersection with Rowlee Road; then, southerly along said road to its intersection with Riverside Street; then, easterly along said street to its intersection with an Unnamed Road at 35.485737 latitude and -119.408187 longitude; then, southerly along said road to its intersection with Burbank Street; then, easterly along said street to its intersection with Leonard Street; then, northerly along said street to its intersection with W Lerdo Highway; then, westerly along said highway to its intersection with Scofield Road; then, northerly along said road to its intersection with Fresno Avenue; then, westerly along said avenue to its intersection with Jumper Street; then, northerly along said street to its intersection with Merced Avenue; then, westerly along said avenue to its intersection with Wildwood Road; then, northerly along said road to its intersection an Unnamed Creek at 35.659542 latitude and -119.437520 longitude; then, easterly along said creek to its intersection with Hanawalt Avenue; then, easterly along said avenue to its intersection with an Unnamed Road; then, southerly along said road to its intersection with Taussig Avenue; then, easterly along said avenue to its intersection with the Central Valley Highway; then, northerly along said highway to its intersection with Peterson Road; then, westerly along said road to its intersection with Magnolia Avenue; then, northerly along said avenue to its intersection with an Imaginary Line at the end of said avenue; then, northerly along said line to its intersection with the Kern County Boundary Line at 35.790015 latitude and -119.365414 longitude; then, easterly along said boundary line to its intersection with Famoso Porterville Highway; then, southwesterly along said highway to its intersection with Kyte Road; then, southerly along said road to its intersection with Whisler Road; then, westerly along said road to its intersection with Zerker Road; then, southerly along said road to its intersection with Phillips Road; then, westerly along said road to its intersection with Wallace Road; then, southerly along said road to its intersection with McCombs Road; then, westerly along said road to its intersection with Driver Road; then, southerly along said intersection to its intersection with Famoso Road; then, westerly along said road to its intersection with Paso Robles Highway; then, westerly

along said highway to its intersection with Beech Avenue; then, southerly along said avenue to its southernmost point; then, southwesterly along an Imaginary Line to the point of beginning.

....

Note: Authority cited: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

Reference: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

## FINDING OF EMERGENCY

The Secretary of the California Department of Food and Agriculture (Department) determined that an emergency exists; an infestation of the Asian citrus psyllid (ACP), *Diaphorina citri* was detected in the Taft area of Kern County. Multiple adult psyllid were identified on November 15, 2016 from a trap in the Taft area. The Department is proposing an emergency amendment of the regulation to expand the quarantine in the Taft area of Kern County.

### Emergency Defined

“Emergency’ means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare,” Government Code Section 11342.545. If a state agency makes a finding that the adoption of a regulation is necessary to address an emergency, the regulation may be adopted as an emergency regulation. Government Code Section 11346.1(b)(1).

In this document the Department is providing the necessary specific facts demonstrating the existence of an emergency and the need for immediate action to prevent serious harm to the general welfare of the citizens of California, pursuant to Government Code Section 11346.1(b)(2).

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency.

Government Code Section 11346.1(a)(3) provides that if the emergency situation clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest, an agency is not required to provide notice pursuant to Government Code Section 11346.1(a)(2). The Secretary believes that this emergency clearly poses such an immediate, serious harm that delaying action to give the notice pursuant to



Government Code Section 11346.1(a)(2) would be inconsistent with the public interest, within the meaning of Government Code Section 11349.6(b).

The purpose of this quarantine regulation is to prevent the artificial spread of ACP to uninfested areas. Preventing the artificial spread of ACP, especially the long distance artificial spread is a key component in order to control the ACP/HLB complex. The Florida Department of Agriculture and Consumer Services chose not to attempt to control the artificial spread of ACP. Consequently, when huanglongbing (HLB) was introduced it swept through the state wherever ACP was present, which was essentially the entire state. In California, we have only confirmed HLB in the Hacienda Heights and San Gabriel areas of Los Angeles County. The confirmed infested trees were removed. However, the HLB disease has a latency period of up to two years prior to being able to detect it through existing laboratory testing procedures. Although the Department has and continues to conduct extensive surveys for HLB without any further detections, the disease may still be present in California. If the disease is present and the vector (ACP) has been successfully eradicated in that area, the infested host will not be able to further spread the disease.

However, ACP has the capability of being able to transmit the disease prior to it being able to be detected by existing laboratory techniques. Therefore, controlling ACP is critical in controlling HLB; even in the apparent absence of the disease's presence. The movement of one ACP infested host plant by an individual or through the movement of infested commercial nursery stock or by a landscaper will result in a new infestation. Each day that this quarantine amendment is not in place increases the odds that artificial spread of ACP will occur unabated and if HLB is in the new area at sub detectable levels, the ACP/HLB complex would be able to begin its devastating destruction in that area.

Providing five days advance notice of an emergency rulemaking to interested parties delays being able to get this quarantine regulation in place by an additional eight to ten days. This delay increases the chances of the Department's inability to prevent long distance artificial spread of ACP, including to other areas of the Central Valley's major citrus production area.

## California Environmental Quality Act

A Statewide Plant Pest Prevention and Management Program Environmental Impact Report (PEIR) was prepared by the Department as the lead agency under the California Environmental Quality Act. The PEIR addresses the potential impacts and mitigations when implementing the Statewide Plant Pest Prevention and Management Program activities related to ACP.

The PEIR may be accessed at the following website:

<http://www.cdfa.ca.gov/plant/peir/>.

## Background

By itself, ACP causes feeding damage to citrus trees. However, when it becomes infected with Huanglongbing (HLB or citrus greening), it becomes a carrier for the disease and can transmit the HLB-associated bacteria from the fourth nymphal instar through the adult stage with a latency period as short as one day or as long as 25 days. HLB was first identified in China in 1919 and is considered to be the most devastating of all citrus diseases. Once infected, there is no cure for HLB infected citrus trees, which decline and die within a few years. Additionally, the fruit produced by infected trees is not suitable for either the fresh market or juice processing due to the significant increase in acidity and bitter taste.

Both ACP and HLB are federal action quarantine pests subject to interstate and international quarantine restrictions by the United States Department of Agriculture (USDA). Both ACP and HLB now occur in Mexico and HLB has continued to spread to the north and now occurs south of the State of Sonora. In mid-January of 2012, HLB was confirmed in the Rio Grande Valley of Texas. Additionally, in July of 2009 ACP nymphs were intercepted in a plant shipment from India sent to the Fresno area which tested positive for HLB. On March 30, 2012, the USDA confirmed the presence of HLB in the Hacienda Heights area of Los Angeles County and the only known infected tree was removed. However, the Department established a HLB Interior Quarantine of approximately 93 square miles surrounding the find site. Additionally, on July 9, 2015, the USDA confirmed the presence of HLB in the San Gabriel area of Los Angeles County.

The Department expanded the HLB Interior Quarantine by approximately 87 square miles surrounding the find site to a total quarantine area of 180 square miles, which it still maintains.

It is imperative that the Department prevent the artificial spread of ACP wherever possible to ensure the devastating damage caused by HLB is limited to the smallest area possible. An economic analysis study by the University of Florida IFAS Extension concluded that after its introduction there, HLB had a total negative impact of \$3.64 billion and eliminated seven percent of the total Florida workforce.

California is the number one economic citrus state in the nation. The California Agricultural Statistics Review for 2014-15 puts the value of citrus (Grapefruit, Oranges, and Navels) at \$1,922,166.00 (California Agricultural Statistics Review, 2014-15; pg 59). A 2002 report by the Arizona State University School of Business indicates that there is at least \$825.6 million of direct economic output and another \$1.6 billion when all upstream suppliers and downstream retailers are included. This represents over 25,000 direct and indirect employees. To protect this source of economic activity, California must do everything possible to exclude both HLB-associated pathogens and ACP from the state.

The Department uses Geographic Information Systems (GIS) mapping programs to plot locations of all the detections of ACP. As a result, based upon the criteria contained in the USDA regulatory protocol, the Department determined that there are new infestations of ACP requiring the expansion of the quarantine area.

On November 15, 2016 (PDR #VS0P06473310) multiple adult ACP were identified from the Taft area of Kern County. This detection meets the state and federal regulatory protocols for expanding the quarantine in the Taft area of Kern County. The Department uses a minimum of a five mile radius surrounding each find site as the quarantine buffer. On November 17, 2016, the Agricultural Commissioner of Kern County requested that the quarantine be expanded in the Taft area.

The USDA cannot regulate less than an entire state unless the state has a quarantine regulation which is substantially the same as what the existing federal rule requires for interstate movement. The Department needs to have the immediate authority to prevent host material from being shipped intrastate outside the proposed quarantine area. This in turn will enable the USDA to amend their federal regulation or order. If the Department fails to implement a quarantine on an emergency basis, the USDA may consider quarantining all of California in order to immediately prevent the affected host material from shipping interstate. The proposed emergency amendment of this regulation would limit the artificial spread of ACP while keeping more onerous federal requirements at the minimum level necessary.

Therefore, it is necessary to amend this regulation by expanding the Taft area of Kern County as an emergency action.

#### Project Description

This proposed emergency action will expand the quarantine for ACP of approximately 166 square miles in the Taft area of Kern County. The proposed boundary lines were drawn jointly by the USDA, the CDFA, and the affected county agricultural commissioner. The criterion for determining quarantine boundaries around an epicenter was based upon the information obtained from the USDA and CDFA. Any quarantine actions undertaken by the Department will be in cooperation and coordination with the USDA and the affected county agricultural commissioners.

The entire counties of Fresno, Imperial, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara, Riverside, Tulare and Ventura and portions of Kern, Madera, Merced, Monterey, Placer, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Alameda, Stanislaus, and Kings are already under quarantine for ACP.

The Department also relied upon the following information:

“Pest and Damage Record #VS0P06473310”, California Department of Food and Agriculture, Plant Health and Pest Prevention Services.

Letter dated November 17, 2016 from Ruben J. Arroyo, Kern County Agricultural Commissioner, to Secretary Karen Ross.

Economic Impacts of Citrus Greening (HLB) in Florida, 2006/07-2010/11, University of Florida IFAS Extension.

Federal Register, Vol. 76, No. 81, dated April 27, 2011, Docket No. APHIS-2010-0048, Citrus Canker, Citrus Greening and Asian Citrus Pysllid; Interstate Movement of Regulated Nursery Stock.

"New Pest Response Guidelines, Citrus Greening Disease," dated June 2, 2008, United States Department of Agriculture, Animal and Plant Health Inspection Service.

#### Authority and Reference Citations:

Authority: Sections 407 and 5322, Food and Agricultural Code.

Reference: Sections 407 and 5322, Food and Agricultural Code.

#### Informative Digest

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322).

#### Anticipated Benefits from This Regulatory Action

Existing law, FAC section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. The amendment of this regulation benefits the citrus industries (nursery, fruit for domestic use and exports, citrus packing facilities) and the environment (urban landscapes) by having a quarantine program to prevent the artificial spread of ACP over long distances. Most all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine boundary area.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

FAC Section 401.5 states, "the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state." The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State. HLB is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Services Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of

the total Florida workforce. The overall California economy benefits by the amendment of this regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar affect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

The California, national and international consumers of California citrus benefit by having high quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material which is planted as ornamentals in various rural and urban landscapes by preventing damage to these hosts and the need for them to be treated to mitigate infestations of ACP.

The Department is the only agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### Section 3435. Asian Citrus Psyllid Interior Quarantine.

This proposed emergency action will expand the quarantine for ACP of approximately 166 square miles in the Taft area of Kern County. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation would be approximately 61,885 square miles.

### Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3435 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the affected county agricultural commissioners requested that these changes to the regulation be made.

### Cost Estimate

The Department has also determined that the regulation will involve no additional costs or savings to any state agency because initial funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no cost to any local agency or school district requiring reimbursement pursuant to Government Code 17500 et seq. and no costs or savings in federal funding to the State.